

CALIFORNIA DEPARTMENT OF INSURANCE  
LEGAL DIVISION

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Insurance Commissioner

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA**

**SACRAMENTO**

In the Matter of the Licenses and Licensing  
Rights of

File No. UPA01017778  
OAH No. N2004030501

MEGA LIFE & HEALTH  
INSURANCE COMPANY,

FIRST AMENDED  
ORDER TO SHOW CAUSE

MID-WEST NATIONAL LIFE  
INSURANCE COMPANY OF  
TENNESSEE,

(Ins. Code §§ 790.03, 790.05; 790.035;  
10172.5(b), (c), 10123.13);

Respondents.

**I. ORDER TO SHOW CAUSE**

The Insurance Commissioner of the State of California (Commissioner) has reason to believe that the above respondents, have been engaged and/or are engaging in this State in unfair or deceptive acts or practices as set forth in the statement of charges contained herein, each falling within Section 790 et seq. of the California Insurance Code (CIC) and title 10, California Code of Regulations (CCR) sections 2695.1 through 2695.17.

The Commissioner has reason to believe that a proceeding with respect to the alleged acts of respondents would be in the public interest.

Therefore, pursuant to the provisions of section 790.05 of the CIC, respondents, MEGA LIFE & HEALTH INSURANCE COMPANY (MEGA) and MID-WEST NATIONAL LIFE INSURANCE COMPANY OF TENNESSEE (MID-WEST), are ordered to appear before the

1 Commissioner, or his authorized representative, on the 7th and 8th day of June, 2004, at the  
2 Office of Administrative Hearings, 560 J Street, Suite 300, Sacramento, California, at 9:00 a.m.,  
3 and show cause, if any cause there be, why the Commissioner should not issue an Order to said  
4 Respondents requiring them and each of them to Cease and Desist from engaging in the methods,  
5 acts, and practices set forth herein and for payment of penalty pursuant to CIC section 790.035, as  
6 set forth in the Statement of Monetary Penalty and as otherwise prayed for herein.

7 **II. JURISDICTION**

8 A. The California Department of Insurance (Department) brings this matter before the  
9 Commissioner pursuant to the provisions of CIC section 790 et seq. and section 12900 et seq.

10 **III. PARTIES**

11 A. MEGA is, and has been since from September 04, 1984, a holder of a Certificate of  
12 Authority (Certificate Number 2976-9) issued by the Commissioner to act in the capacity of a  
13 Life and Disability Insurer.

14 B. MID-WEST , a subsidiary of MEGA, is, and has been since December 11, 1986, a  
15 holder of a Certificate of Authority (Certificate Number 3067-6) issued by the Commissioner to  
16 act in the capacity of a Life and Disability Insurer.

17 **IV. FACTUAL ALLEGATIONS**

18 A. The Department conducted a Market Conduct Examination (examination) of  
19 MEGA and MID-WEST pursuant to the authority granted under CIC sections 730, 733, 736, and  
20 790.04; and title 10, CCR, section 2695.3, subsection (a). The on-site portion of said examination  
21 was conducted from April 9, 2001 through April 27, 2001, in Dallas, Texas.

22 B. During said examination the Department reviewed a sample of 654 out of a total  
23 population of 84,227 claim files that were closed by MEGA during the period of February 1,  
24 2000 though January 31, 2001. Of the 654 claim files reviewed, violations of applicable  
25 provisions of the CIC and CCR were found in at least 75 files, representing 116 separate and  
26 distinct violations of the CIC and/or CCR.

27 C. In addition, the Department reviewed a sample of 435 of a total population of 63,888  
28 claim files that were closed by MID-WEST during the period of February 1, 2000 through

1 January 31, 2001. Of the 435 files reviewed, violations of applicable provision of the CIC and/or  
2 CCR were found in at least 45 files, representing 45 separate and distinct violations of the CIC  
3 and/or CCR.

4 D. Prior to the on-site portion of said examination, the Department requested and  
5 received from Respondents' a claims detail report depicting the total number of claims during the  
6 audit period including the dates of loss and the dates each claim was received, denied and/or paid.  
7 A review of this document has identified further violations. A summary of the list of said  
8 violations is attached as Exhibits C and captioned: Summary of Total Claims Data.

9 E. All identifying and privileged information regarding the claim files referenced in  
10 this pleading has been redacted from the exhibits attached hereto for purposes of publication on  
11 the Department's public website pursuant to the provisions of CIC Section 12938.

12 **V. STATEMENT OF CHARGES RE: MEGA**

13 A. In at least 12 claims (Exhibit A-1) Mega failed to disclose all benefits, coverage,  
14 time limits or other provisions of the insurance policy. Each act constitutes a violation of title 10,  
15 CCR, section 2695.4, subsection (a) and CIC section 790.03 subsection (h)(1), (3) and (5).

16 B. In at least 3 claims (Exhibit A-2) Mega failed to record in the claim file the date  
17 the Company received, date(s) the Company processed and date the Company transmitted or  
18 mailed every relevant document in the file. Each act constitutes a violation of CCR, section  
19 2695.3, subsection (b)(2) and CIC section 790.03, subsection (h) (2) and (3).

20 C. In at least 1 claim (Exhibit A-3) Mega failed to maintain all documents, notes and  
21 work papers (including correspondence) which reasonably pertain to each claim in such detail  
22 that pertinent events and the dates of the events can be reconstructed and the licensee's action  
23 pertaining to the claim can be determined. Each act constitutes a violation of CCR, section  
24 2695.3, subsection (a) and CIC section 790.03, subsection (h)(2) and (3).

25 D. In at least 1414 instances (Exhibit "C-2" and Exhibit "A-4," ten of which are  
26 duplicated in Exhibit "C-2") Mega failed to effectuate prompt, fair and equitable settlement of the  
27 claim in which liability had become reasonably clear and/or failed to affirm or deny coverage  
28 within a reasonable time after proof of loss requirements had been completed. Specifically, Mega

1 did not immediately, but in no event more than forty (40) calendar days after receipt of a proof of  
2 claim, accept or deny the claim, in whole or in part; and/or notify the claimant of all bases for  
3 such denial; and/or notify the claimant, in writing, that the additional time and, if necessary,  
4 additional information was necessary to make such determination; and/or thereafter, every thirty  
5 (30) days, provide such notification until such determination was made, and upon acceptance of  
6 the claim, in whole or part, immediately, but in no event more than thirty (30) calendar days later,  
7 tender payment or otherwise take action to perform its obligation. Each act constituting a  
8 violation of CCR section 2695.7, subsection (b), (c)(1)(2) and (h) and CIC Section 790.03,  
9 subsection (h)(4) and (5).

10 E. In at least 1 claim (Exhibit A-5) MEGA failed to adopt and implement reasonable  
11 standards for the prompt investigation and processing of claims. Each act constitutes a violation  
12 of CIC section 790.03, subsection (h)(3).

13 F. In at least 1 claim (Exhibit A-6) MEGA failed to include a statement in their claim  
14 denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she  
15 may have the matter reviewed by the California Department of Insurance. Each act constitutes a  
16 violation of CCR section 2695.7, subsection (b)(3) which also is a violation of CIC section  
17 790.03, subsection (h)(3).

18 G. In at least 31 claims (Exhibit A-7) MEGA failed to notify the beneficiary that  
19 interest will be paid or failed to specify the rate of interest. Said acts constitute violations CIC  
20 section 10172.5, subsection (b) and CIC section 790.03, subsection (h)(3) and (5).

21 H. In at least 6 claims (Exhibit A-8) MEGA failed to reimburse claims within a  
22 reasonable period of time. Each act constitutes a violation of CIC section 10172.5, subsection (c)  
23 which also is a violation of CIC section 790.03, subsection (h)(3) and (5).

24 I. In at least 14,637 claims (Exhibits C-1, C-3 and A-9) MEGA failed to reimburse  
25 the claim, in whole or in part; and/or failed to notify the claimant in writing that the claim was  
26 contested or denied, as soon as practical, but no later than 30 working days after receipt of the  
27 claim; and/or pay interest on an uncontested claim, or portion thereof, after thirty working days  
28 commencing 30 working days after receipt of the receipt of the claim. Each act constitutes a

1 violation of CIC section 10123.13 which is a violation CIC section 790.03, subsection (h)(3) and  
2 (5).

3 J. As provided in the paragraphs III-A – VI-I, above, Mega, has failed to adopt and  
4 implement reasonable standards for the prompt investigation and processing of claims as required  
5 by CIC section 790.03, subsection (h)(3)

6 K. As provided in paragraphs V-A through V-J, above, MEGA has failed to carry out  
7 their contracts in good faith and or conducting its business fraudulently. Said acts constitute a  
8 violation of CIC section 704.

9 L. The total number of claims processed by Respondent, MEGA, during the audit  
10 period was 84,227. The pattern and frequency of the acts and violations alleged in paragraphs  
11 herein demonstrate they were undertaken knowingly or constitute a general business practice.

12 **V. STATEMENT OF CHARGES RE: MID-WEST**

13 A. In at least 215 instances (Exhibit C-5, Exhibit “B-1”, 5 of which are duplicated in  
14 Exhibit C-5) MID-WEST failed to effectuate prompt, fair and equitable settlements of claims in  
15 which liability had become reasonably clear and/or failed to affirm or deny coverage within a  
16 reasonable time after proof of loss requirements had been completed. Specifically, Mid-West did  
17 not immediately, but in no event more than forty (40) calendar days after receipt of a proof of  
18 claim, accept or deny the claim, in whole or in part; and/or notify the claimant of all bases for  
19 such denial; and/or notify the claimant, in writing, that additional time and, if necessary,  
20 additional information was necessary to make such determination; and/or thereafter, every thirty  
21 (30) days, provide such notification until such determination was made; and/or upon acceptance  
22 of the claim, in whole or part, immediately, but in no event more than thirty (30) calendar days  
23 later, tender payment or otherwise take action to perform its obligation. Each act constituting a  
24 violation of CCR section 2695.7, subsection (b), (c)(1)(2) and (h) and CIC Section 790.03,  
25 subsection (h)(4) and (5). Each act constitutes a violations of CCR section 2695.7, subsection (b)  
26 and which constitute violations of CIC section 790.03, subsection (h)(5).

27 B. In at least 1 claim (Exhibit B-3) MID-WEST failed maintain a claim file containing  
28 all documents, notes and work papers which pertain to the claim. Each act constitute a violation

1 of CCR section 2695.3 subsection (a) which also is a violation of CIC section 790.03, subsection  
2 (h)(5).

3 C. In at least 13,958 claims (Exhibits C-4, C-6 and B-4) MID-WEST failed to  
4 reimburse the claim, or any portion thereof; and/or failed to notify the claimant in writing that the  
5 claim was contested or denied, as soon as practical, but no later than 30 working days after receipt  
6 of the claim; and/or pay interest on any uncontested claim, or portion thereof, commencing 30  
7 working days after receipt of the receipt of the claim. Each act constitutes a violation of CIC  
8 section 10123.13 which is a violation CIC section 790.03, subsection (h)(3) and (5).

9 D. As provided in the paragraphs VI-A through VI-C, above, MID-WEST, has failed to  
10 adopt and implement reasonable standards for the prompt investigation and processing of claims  
11 as required by CIC section 790.03, subsection (h)(3).

12 E. As provided in paragraphs VI-A through VI-D, above, MID-WEST, has failed to  
13 carry out their contracts in good faith and or conducting its business fraudulently. Said act  
14 constitute a violation of CIC section 704.

15 F. The total number of claims processed during the audit period by MID-WEST, was  
16 63,888. The pattern and frequency of the acts and violations alleged in paragraphs herein  
17 demonstrate they were undertaken knowingly or constitute a general business practice.

18 **VIII . STATEMENT OF MONETARY PENALTY [CIC §§790.05 & 790.35]**

19 A. The facts alleged in paragraphs III-A through VI-G, above, constitute grounds for  
20 the Commissioner, pursuant to CIC sections 790.05 and 790.35 to impose an order that  
21 Respondents, MEGA and MID-WEST, and each of them, cease and desist from engaging in such  
22 unfair and deceptive practices and pay a civil penalty not to exceed five thousand (\$5,000) dollars  
23 for each act, or if the act or practice is willful, a civil penalty not to exceed ten thousand  
24 (\$10,000) dollars for each act.

25 B. The facts alleged in paragraphs III-A through VI-F above, constitute grounds for the  
26 Commissioner to suspend their Certificates of Authority for a period not to exceed on year  
27 pursuant to CIC section 704, subsection (b) or, pursuant to CIC section 704.7, to impose a fine in  
28 an amount not exceeding \$55,000 in lieu of said suspensions.

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